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# COMMERCIAL LAW

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## REPORT

OF THE

COMMITTEE ON COMMERCIAL LAW

TO THE

AMERICAN BAR ASSOCIATION

AT THEIR MEETING AT

WASHINGTON, D. C., OCTOBER 20-22, 1914



PRESENTED BY MR. POMERENE

OCTOBER 8, 1914.—Ordered to be printed

WASHINGTON

1914



# REPORT OF THE COMMITTEE ON COMMERCIAL LAW.

[To be presented at the meeting of the American Bar Association, at Washington, D. C., Oct. 20-22, 1914.]

*To the American Bar Association:*

Your committee on commercial law reports as follows:

## I. NATIONAL LEGISLATION ON BILLS OF LADING.

On April 8, 1913, Senator Pomerene introduced Senate bill No. 387, relating to bills of lading in interstate and foreign commerce.

On March 3, 1914, Senator Pomerene, on behalf of the Senate Committee on Interstate Commerce, reported said bill favorably to the United States Senate, being Report No. 309, Sixty-third Congress, second session, March 3, 1914, a copy of which said report is hereto attached as "Exhibit A."

On motion of Senator Pomerene, a few verbal changes were made in sections 1 and 49 of the bill; and the United States Senate, on June 5, 1914, passed said bill, with said amendments, by a unanimous vote. A copy of said bill, as passed, is hereto attached and marked "Exhibit B." Said bill is now in the hands of the House Committee on Interstate and Foreign Commerce.

Section 1 of the bill as reported March 3, 1914, reads as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That bills of lading issued by any common carrier for the transportation of goods from a place in a State to a place in a foreign country or from a place in one State to a place in another State shall be governed by this act.*

Section 1 of the bill as it passed the United States Senate on June 5, 1914, reads as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States, or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this act.*

In connection with the foregoing, attention is called to the definitions contained in section 46 of the bill, particularly the following definition, to wit:

SEC. 46. First. That in this act, unless the context or subject matter otherwise requires—

\* \* \* \* \*

"State" includes any Territory, District, insular possession or isthmian possession.

Section 49 of said bill as reported March 3, 1914, reads as follows:

SEC. 49. That this act shall take effect on the first day of January, nineteen hundred and fourteen.



Section 49 of said bill as it passed the United States Senate on June 5, 1914, reads as follows:

SEC. 49. That this act shall take effect on the first day of January, nineteen hundred and fifteen.

## II. BANKRUPTCY.

In our last report we reported seven bills pending to repeal or amend the bankruptcy act (Vol. XXXVIII, Reports of the American Bar Association for the year 1913, pp. 478-479). These bills are still pending and have not been acted on by the House Judiciary Committee, to which they were referred.

Since our last report there have been introduced at the first and second sessions of the Sixty-third Congress the following five additional bills relating to bankruptcy:

(a) *Edwards H. B. No. 8755*.—On October 7, 1913, Mr. Edwards introduced at the first session of the Sixty-third Congress, House bill No. 8755, to repeal the bankruptcy act. A copy of said bill is hereto attached and marked "Exhibit C." This bill should be defeated.

(b) *Tribble H. B. No. 11327*.—On January 12, 1914, Mr. Tribble introduced at the second session of the Sixty-third Congress House bill No. 11327 to repeal the bankruptcy act. A copy of said bill is hereto attached and marked "Exhibit D." This bill should be defeated.

(c) *Connelly H. B. No. 12867*.—On February 3, 1914, Mr. Connelly introduced at the second session of the Sixty-third Congress House bill No. 12867 to repeal the bankruptcy act. A copy of said bill is hereto attached and marked "Exhibit E." This bill should be defeated.

(d) *Dent H. B. 14582*.—On March 13, 1914, Mr. Dent introduced at the second session of the Sixty-third Congress House bill No. 14582 to amend the bankruptcy act. A copy of said bill is hereto attached and marked "Exhibit F." It is not wise at this time to attempt to amend the bankruptcy act.

(e) *Mott H. B. 16812*.—On May 25, 1914, Mr. Mott introduced at the second session of the Sixty-third Congress House bill No. 16812 to amend the bankruptcy act. A copy of said bill is hereto attached and marked "Exhibit G." It is not wise at this time to attempt to amend the bankruptcy act.

## III. NATIONAL LEGISLATION PROHIBITING CARRIERS FROM RESTRICTING THEIR COMMON-LAW LIABILITIES.

At common law a common carrier is an insurer of the safety of goods entrusted to it except as against loss and damage arising from the act of God, the public enemy, the act of public authority, the act of the shipper, and the inherent nature of the goods. These exceptions were further extended by contract entered into between a common carrier and a shipper except when such contract was unreasonable or contrary to law or contrary to public policy. Many States, both by constitutional provisions and statutes, declared such contract limitations on the common-law liability of common carriers to be null and void. The Federal courts, even as to interstate shipments, held such constitutional provisions and statutes to be binding until the



passage of the Carmack amendment to the Hepburn Act of June 29, 1906. By a series of decisions in the following cases the Supreme Court of the United States declared that since the Carmack amendment to the Hepburn Act of June 29, 1906, such State constitutional provisions and statutes were no longer binding as to interstate commerce:

*Adams Express Company v. Croninger*, 226 U. S., 491; argued March 13, 1912; reargued October 23, 1912; decided January 6, 1913.

*Chicago, Burlington & Quincy Railway Co. v. Miller*, 226 U. S., 513; argued March 8, 1912; reargued October 22, 1912; decided January 6, 1913.

*Chicago, St. Paul, Minneapolis & Omaha Railway v. Latta*, 226 U. S., 519; argued March 8 and 11, 1912; reargued October 22 and 23, 1912; decided January 6, 1913.

*Wells, Fargo & Company v. Neiman-Marcus Co.*, 227 U. S., 469; argued November 5, 1912; decided February 24, 1913.

*Kansas City Southern Railway v. Carl*, 227 U. S., 639; argued October 22, 1912; decided March 10, 1913.

*Missouri, Kansas & Texas Railway Co. v. Harriman*, 227 U. S., 657; argued January 2, 1913; decided March 1, 1913.

*Chicago, Rock Island & Pacific Railway Co. v. Cramer*, 232 U. S., 49; submitted January 16, 1914; decided February 24, 1914.

*Great Northern Railway Co. v. O'Connor*, 232 U. S., 58; submitted January 6, 1914; decided February 24, 1914.

*Boston & Maine Railroad v. Hooker*, 233 U. S., 97; argued December 10 and 11, 1913; decided April 6, 1914.

*Atchison, Topeka & Santa Fe Railway Company v. Robinson*, 233 U. S., 173; argued February 26, 1914; decided April 6, 1914.

*Atchison, Topeka & Santa Fe Railway Company v. Moore*, 233 U. S., 182; argued February 26, 1914; decided April 6, 1914.

*Missouri, Kansas & Texas Railway Co. v. Harris*, 234 U. S., 412; submitted February 24, 1914; decided June 8, 1914.

In order to obviate the effect of six of said decisions (which had at that time been announced) and to provide Federal legislation on the same general subject which is now covered by State constitution and statutes as to intrastate commerce, Mr. Borland, on December 11, 1913, Sixty-third Congress, second session, introduced House bill No. 10309. A copy of said bill is hereto attached and marked "Exhibit H."

By this bill it is sought to give the holder of a receipt or bill of lading "all the rights and remedies existing under the laws of the State where the suit is instituted." In other words, it is proposed to perpetuate State rights and remedies in interstate commerce.

Senator Cummins introduced into the Senate Senate bill No. 4522 on the same general subject, but differing in many respects from the Borland bill.

Senator Robinson, on behalf of the Committee on Interstate Commerce, reported out said Cummins Senate bill 4522 on April 6, 1914, as Report No. 407, Sixty-third Congress, second session, recommending that Senator Cummins's bill No. 4522 be passed with the amendments set forth in the report. A copy of said report is hereto attached and marked "Exhibit I."

The bill was further amended on the floor of the Senate, and on June 4, 1914, Sixty-third Congress, second session, said Senator Cum-



mins's Senate bill 4522 as amended was duly passed. A copy of said Senate bill 4522 as the same passed the Senate is hereto attached and marked "Exhibit J."

Mr. James C. Lincoln, former president of the National Industrial Traffic League, addressed the committee on the subject matter of these bills. Mr. George F. Brownell, general solicitor of the Erie Railroad, had expected to address the committee, but was unavoidably absent.

The committee desires to report that it can not now recommend the passage of said Senate bill No. 4522 by the House of Representatives in the present form in which it has come from the Senate.

It seems to the committee that the time has arrived for Congress to pass a law creating a commission to codify the law as to the mutual rights and obligations of carriers and shippers in interstate and foreign commerce, rather than to remedy any claimed evils by "piecemeal" legislation.

#### IV. DECK CARGOES.

At the last meeting of the American Bar Association (Vol. XXXVIII, Reports of the American Bar Association for 1913, pp. 75-76) the following appears:

Edgar H. Farrar, of Louisiana:

I am requested by the International Law Association to call the attention of the American Bar Association to an effort which will be made at the Madrid Conference of that body to obtain an international agreement in respect to deck cargoes exported from this country—particularly in regard to timber deck cargoes exported in the winter-time.

I therefore move that the committee on commercial law be instructed to cooperate with the International Law Association for the purpose of obtaining proper legislation from Congress on this subject.

The motion was carried.

Hon. Eugene Tyler Chamberlain, Commissioner of Navigation, in his annual report to Hon. William C. Redfield, Secretary of Commerce, dated October 25, 1913, at pages 41-42, made the following observations, under the title of "Timber deck loads":

As soon as wireless telegraphy made it feasible to report promptly and remove derelicts from the pathway of ocean vessels, Congress gave liberal appropriations for the purpose. The excellent work done by the United States Revenue-Cutter Service is well known in this country and last January was commended by the British Board of Trade in these words:

"The provision of special means for the destruction and removal of derelicts on the western side of the North Atlantic is absolutely necessary, owing to the peculiar conditions which prevail on that coast, and the work which at present is so efficiently performed by the United States Revenue-Cutter Service should, in any case, be continued, even if it were to involve the cooperation of other nations in the provision of the necessary funds."

The work which has been done to destroy these menaces to navigation makes it the more incumbent upon us to remove, if practicable, the cause. Of 13 derelicts destroyed or salvaged by the Revenue-Cutter Service during the years 1909 to 1912, 11 were vessels with deck loads of timber or lumber, and it may be accepted almost as a general proposition that the deck load of lumber or timber is the cause of the derelict. Foreign returns corroborate the conclusions from our reports. During the year ended June 30, 1912, British reports show that 91 British vessels on the Atlantic sustained casualties while carrying deck loads of timber or lumber. The vessels engaged in carrying such cargoes, of course, carry no passengers, and the fatalities which attend them attract little notice in this country. The Dominion of Canada, in 1908, enacted a law prohibiting the carriage in winter from Canadian ports of such cargoes except under rigid regulations to insure security, and the passage of a similar law by the United States is manifestly desirable.



Hon. William C. Redfield, Secretary of Commerce, in his annual report to the President, dated December 16, 1913, at page 150, said under the title of "Deck loads":

The transportation of deck loads of timber on the Atlantic, especially during the winter months, is attended with danger, and in the regulation of such transportation we have been backward. The loss of one of these cargo boats does not attract the notice which is aroused by the risks incurred by ocean passengers, but it is not to our credit that Great Britain and Canada should have shown more consideration for the lives of seamen engaged on such ships than we have done. Again, derelicts, which fill so large a place in the public eye, are almost always lumber-laden vessels, and our failure to regulate such deck loads contributes to the creation and maintenance of these menaces to navigation. The department during the year has been in consultation with those on both sides of the Atlantic concerned in this subject, and a measure of relief will be prepared for the consideration of Congress at the coming session.

Your committee put itself in touch with the Department of Commerce of the United States and particularly its Bureau of Navigation; the Imperial Merchant Service Guild of Liverpool, England; the International Law Association, with headquarters at London, England; the Chamber of Commerce of the United States of America; the Institute of London Underwriters; the National Wholesale Lumber Dealers' Association; the American Seamen's Union; the North Carolina Pine Association; the Maritime Association of the Port of New York; the Southern Pine Lumber Association; the New Orleans Steamship Association; the Atlantic Carriers' Association; the American Steamship Association; and the committee on international law of the American Bar Association. Extensive correspondence was also carried on with numerous individual shippers located on the Pacific coast, at the Gulf ports, and on the Atlantic coast.

Your committee has carefully examined the proceedings of the International Law Association held at Madrid, Spain, October 1 to 6, 1913.

Your committee submits herewith copy of the report of the committee on deck cargoes of heavy wood of the International Law Association, submitted at the Madrid conference of 1913, and marks the same "Exhibit K."

Your committee likewise submits a copy of the supplemental report of the committee on deck cargoes of heavy wood of the International Law Association, submitted at the Madrid conference of 1913, and marks the same "Exhibit L."

An examination of said Exhibit K will disclose the great lack of uniformity in the laws of various nations on this subject.

Your committee held a public meeting at Washington, D. C., June 5, 1914, on all the matters before it, particularly on the subject of deck cargoes, and the following addressed the committee on the last-named subject:

Mr. W. P. Ross, representing the New Orleans Steamship Association;

Hon. Eugene Tyler Chamberlain, Commissioner of Navigation of the Department of Commerce;

Mr. George Whitfield Betts, jr., member of committee on deck cargoes of the International Law Association;

Mr. Edward C. Plummer, representing the Atlantic Carriers' Association;

Mr. T. Catesby Jones, representing cargo interests;



Mr. Edwin H. Duff, representing the American Steamship Association;

Mr. James H. Hayden, representing underwriters;

Prof. Charles Noble Gregory, representing the committee on international law of the American Bar Association; and

Mr. George Whitelock, member of the International Law Association.

Your committee has carefully preserved all correspondence and documents and a transcript of the stenographic report of the proceedings at the public meeting of June 5, 1914.

The question of deck cargoes in the winter season involves commercial and economic problems of far-reaching import. We express no views as to legislation as to deck cargoes in the coastwise trade and in trade on the Pacific Ocean. From a consideration of all the evidence presented to the committee, it is the opinion of the committee that an international agreement should be entered into as to heavy timber deck cargoes in the winter season from the Atlantic and Gulf ports to European ports, and that appropriate legislation should be had authorizing the appointment of American delegates to an international conference for that purpose, and that the American Bar Association should cooperate with the International Law Association to bring the same about.

Your committee was strongly urged to include a recommendation not merely as to Atlantic heavy timber deck cargoes in the winter season, but to make a recommendation as to deck cargoes in general. Your committee feels that this is beyond the scope of its authority as outlined in the resolution offered by Hon. Edgar H. Farrar and adopted by the American Bar Association, and under which your committee is acting.

#### V. INTERNATIONAL AGREEMENT AS TO THE UNIFICATION OF THE LAW ON BILLS OF EXCHANGE AND CHECKS.

The committee on commercial law of the American Bar association at the meeting of that body in Boston, Mass., August 29-31, 1911, made the following recommendation:

That the American Bar Association approve the purpose of the International Conference for the Unification of Laws Concerning Bills of Exchange and Promissory Notes, and urge the continued participation of the United States in the conferences, and that the committee on commercial law be given power to take up with the committee on international law the subject of the said conference.

The American Bar Association adopted the recommendation of your committee.

Prof. Charles Noble Gregory, chairman of the committee on international law of the American Bar Association, met with your committee at the public meeting above referred to on June 5, 1914. Your committee was addressed by Mr. Charles A. Conant, who was the American delegate at The Hague in the interest of international uniformity of bills of exchange and checks. The work of the International Congress on Bills of Exchange was transmitted to Congress by the President August 13, 1913, and printed as Senate Document No. 162, Sixty-third Congress, first session. The effort to secure throughout the world uniform legislation on the subject of bills of exchange and checks should be continued and appropriate legisla-



tion obtained to secure continued American representation at further and future conferences on the same subject and for the official appointment of American delegates to the International Congress on Bills of Exchange.

## VI. CHANGE OF NAME OF COMMITTEE.

This committee is named in the constitution as the "Committee on Commercial Law." In view of the character of subjects referred to and considered by your committee it is suggested that the constitution be so amended that the committee will be known hereafter as the "Committee on Commerce, Trade, and Commercial Law."

## VII. RECOMMENDATIONS.

In conclusion, your committee recommends:

(1) That the American Bar Association pass a resolution indorsing Pomerene Senate bill No. 387 relating to bills of lading in interstate and foreign commerce.

(2) That the American Bar Association pass a resolution commending the continuation of the national bankruptcy act and that the various bills pending to repeal the same be defeated and that the consideration of the various bills pending to amend the same be postponed to a future date.

(3) That the American Bar Association pass a resolution to the effect that Cummins Senate bill No. 4522 is not now in such form as to receive the indorsement of the American Bar Association, and that Congress should pass a law creating a commission to codify the law as to the mutual rights and obligations of carriers and shippers as affecting interstate and foreign commerce, including the subject of restricting the common-law liability of common carriers, and that the remedy for any existing evils is not by "piecemeal" legislation.

(4) That the American Bar Association cooperate with the International Law Association to obtain an international agreement in respect to Atlantic heavy timber deck cargoes exported from the United States in the winter season, and that the president of the American Bar Association be authorized to appoint a committee to attend meetings of the International Law Association and to confer with appropriate committee or committees of the International Law Association on Atlantic heavy timber deck cargoes in obtaining an international agreement in respect to Atlantic heavy timber deck cargoes exported from the United States in the winter season.

(5) That the American Bar Association pass a resolution requesting Congress to take appropriate action to provide for representation by the United States in any international conference that may be called for the purpose of considering Atlantic heavy timber deck cargoes exported from the United States in the winter season.

(6) That the American Bar Association approves the purposes of the International Conference for the Unification of Laws Concerning Bills of Exchange and Checks.

(7) That the American Bar Association pass a resolution requesting Congress to take appropriate action authorizing official appointment of American delegates to the International Conference for the Unifica-



tion of the Laws Concerning Bills of Exchange and Checks or either of them.

(8) That the constitution of the American Bar Association be amended so that the Committee on Commercial Law shall be known hereafter as the "Committee on Commerce, Trade, and Commercial Law."

Respectfully submitted.

FRANCIS B. JAMES, *Chairman*,  
W. U. HENSEL,  
ERNEST T. FLORANCE,  
J. A. C. KENNEDY,  
FRANK GOSNELL,  
*Committee on Commercial Law,*  
*American Bar Association.*

SEPTEMBER 15, 1914.

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### EXHIBIT A.

SENATE REPORT NO. 309, SIXTY-THIRD CONGRESS, SECOND SESSION.

BILLS OF LADING.

MARCH 3, 1914.—Ordered to be printed.

Mr. Pomerene, from the Committee on Interstate Commerce, submitted the following

#### REPORT.

[To accompany S. 387.]

The Committee on Interstate Commerce, to which was referred Senate bill 387, reports it back to the Senate with the recommendation that it pass.

This is the same bill passed by the United States Senate on August 24, 1912. It represents the result of the labors of the Commissioners on Uniform State Laws of the American Bar Association after repeated conferences with representatives of the American Bankers' Association, the railroad organizations, and the shippers' associations. It was originally prepared for the purpose of having it enacted by the various State legislatures, so as to provide uniformity of legislation upon this subject. It has already been enacted by 10 of the leading commercial States—Connecticut, Illinois, Iowa, Louisiana, Massachusetts, Maryland, Michigan, New York, Ohio, and Pennsylvania. The pending bill does not vary substantially from the acts passed by the legislatures of the several States just named, save that it is made applicable to interstate and foreign commerce.

#### NECESSITY FOR FEDERAL LEGISLATION.

In the hearings before the Interstate Commerce Committee it was testified that bills of lading were annually issued in American commerce representing consignments of merchandise valued at \$25,000,000,000; that 99 per cent of the tonnage and value of the commodities shipped and covered by these bills of lading involved interstate and foreign commerce and 1 per cent intrastate commerce. On these bills of lading it was estimated that \$5,000,000,000 in cash was advanced annually by the banks. It must follow, therefore, that any reasonable legislation which will lead to the security of these bills of lading in the hands of their owners or holders must be of immense value to all parties concerned.

In 1889 the Supreme Court of the United States in the case of *Friedlander v. Texas & Pacific Railroad* (130 U. S., 416) held:

"A bill of lading fraudulently issued by the station agent of a railroad company without receiving the goods named in it for transportation, but in other respects according to the customary course of business, imposes no liability upon the company to an innocent holder who receives it without knowledge or notice of the fraud and for a valuable consideration."



Under the agreed statement of the facts in this case it appears that the bill of lading issued November 6, 1883, was executed by one Easton, the agent of the railroad company, fraudulently and in collusion with one Lahnestein, and without receiving any of the cotton represented by the bill of lading to have been received and without any expectation on the part of Easton to receive it. A conspiracy had been entered into between Easton and Lahnestein to issue these bills of lading for Lahnestein's benefit. They had been guilty of similar transactions without receiving the cotton. The court held that under these circumstances the agent was acting beyond the scope of his authority and, therefore, the railroad company was not bound.

Whether this decision was sound doctrine or not, it was based upon precedent, and ever since has been recognized as the law of the land by the Federal courts as well as by some of the State courts.

This rule has resulted in great losses to the buyers of merchandise who have the right to depend upon the bona fides of bills of lading, to bankers and financial men who have bought or discounted drafts secured by these bills of lading, and to the sellers of cotton, grain, or other products who are honest and whose transactions are discredited by reason of the frauds which have been permitted to be perpetrated by fraudulent shippers conspiring with freight agents.

As a further result of this rule millions of dollars have been lost to commerce.

The pending bill (sec. 25) modifies the law as laid down in the Freidlander case by declaring:

"SEC. 25. That if a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to (a) the consignee named in a straight bill or (b) the holder of an order bill, who has given value in good faith for damages caused by the nonreceipt by the carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue."

Other defects in the present law which it is sought to correct by this bill may be classified under the heads of: (1) Shipper's load and count, (2) duplicate bills of lading, (3) altered bills of lading, (4) spent bills of lading, (5) forgeries.

#### SHIPPER'S LOAD AND COUNT.

Many abuses have arisen by carriers marking a bill of lading "shipper's load and count." This, of course, affects their value for banking and credit purposes. These abuses are sought to be remedied by sections 23 and 24 of the bill, which provides:

"SEC. 23. That when goods are loaded by a carrier, such carrier shall count the packages of goods, if package freight, and ascertain the kind and quantity if bulk freight, and such carrier shall not, in such cases, insert in the bill of lading 'Shipper's load and count,' or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

"SEC. 24. That when goods are loaded by a shipper at a place where the carrier maintains an agency, such carrier shall, on written request of such shipper and when given a reasonable opportunity by the shipper so to do, count the packages of goods if package freight and ascertain the kind and quantity if bulk freight within a reasonable time after such written request, and such carrier shall not, in such cases, insert in the bill of lading 'Shipper's load and count,' or other words of like purport indicating that the goods were loaded by the shipper and the description of them made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein."

#### DUPLICATE BILLS OF LADING.

The regulations with regard to duplicate bills of lading are found in sections 6, 7, and 18. They read as follows:

"SEC. 6. That order bills issued in a state for the transportation of goods to any place in the United States on the Continent of North America, except Alaska and Panama, shall not be issued in parts or sets. If so issued, the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts: *Provided, however,* That nothing contained in this section shall be interpreted or construed to forbid the issuing of order bills in parts or sets for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries, or to impose the liabilities set forth in this section for so doing.



"SEC. 7. That when more than one order bill is issued in a State for the same goods to be transported to any place in the United States on the continent of North America, except Alaska and Panama, the word 'duplicate,' or some other word or words indicating that the document is not an original bill, shall be placed plainly upon the face of every such bill, except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill: *Provided, however,* That nothing contained in this section shall in such case for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries be interpreted or construed so as to require the placing of the word 'duplicate' thereon or to impose the liabilities set forth in this section for failure so to do.

"SEC. 18. That a bill upon the face of which the word 'duplicate,' or some other word or words indicating that the document is not an original bill, is placed plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability."

#### ALTERED BILLS OF LADING.

Section 16 provides:

"SEC. 16. That any alteration, addition, or erasure in a bill after its issue without authority from the carrier issuing the same, either in writing or noted on the bill, shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor."

#### SPENT BILLS OF LADING.

Many frauds have been committed in the commercial world by using bills of lading after the goods have been delivered, because they were not taken up or canceled. Frequently these bills of lading have been used for the purpose of securing credit. The railroads have not been responsible, because they have been able to prove the delivery of the goods. Sections 14 and 15 of the bill remedy these abuses. They read as follows:

"SEC. 14. That except as provided in section twenty-nine, and except when compelled by legal process, if a carrier delivers goods for which an order bill has been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto.

"SEC. 15. That except as provided in section twenty-nine, and except when compelled by legal process, if a carrier delivers part of the goods for which an order bill had been issued and fails either—

"(a) To take up and cancel the bill, or

"(b) To place plainly upon it a statement that a portion of the goods has been delivered with a description which may be in general terms either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto."

#### FORGED BILLS OF LADING.

While the laws of the several States penalize the forging of bills of lading it is believed, because of the fact that by far the greater part of the commerce is interstate in character, there should be some Federal legislation making the forging and issuing of forged bills of lading punishable by the Federal courts. This is done by section 44 of the pending bill.

It is not intended by this report to call especial attention to all of the provisions of the bill, as they are self-explanatory. Suffice it to say that in addition to the correction of the abuses hereinbefore specially referred to, the bill is a codification of the principles now controlling interstate shipments. It defines the rights and liabilities of the common carriers, consignors, and consignees, and all other intermediate owners and holders of bills of lading. It will serve to make more uniform the commercial laws of our country.



## CONSTITUTIONALITY OF THE BILL.

Congress is given the right "To regulate commerce with foreign nations and among the several States and with the Indian tribes." Under this provision of the Constitution it seems clear that interstate shipments are subject to the control of Congress. Bills of lading are but representatives of the goods therein described, defining the rights and liabilities of the carriers, the consignor, and the consignee, and other holders thereof. If the goods shipped are subject to the rules and regulations of interstate commerce, then clearly it seems bills of lading, representing them, also must be interstate commerce, and Congress therefore has the right to declare the terms and conditions upon which they may be issued, used, and retired.

Without intending to discuss the many decisions of our Supreme Court defining the power of Congress over interstate commerce, we believe the constitutionality of the pending bill by analogy clearly follows from the doctrine laid down in *Southern Railway v. United States* (222 U. S., 20). The syllabus reads as follows:

"The safety-appliance act of March 2, 1893 (27 Stat., 571, ch. 196), as amended March 2, 1903 (32 Stat., 943, ch. 976), embraces all locomotives, cars, and similar vehicles used on any railway that is a highway of interstate commerce, and is not confined exclusively to vehicles engaged in such commerce.

"The power of Congress under the commerce clause of the Constitution is plenary and competent to protect persons and property moving in interstate commerce from all danger, no matter what the source may be; to that end Congress may require all vehicles moving on highways of interstate commerce to be so equipped as to avoid danger to persons and property moving in interstate commerce."

Mr. Justice Van Devanter, who delivered the opinion of the court, said, at page 26: "We come, then, to the question whether these acts are within the power of Congress under the commerce clause of the Constitution, considering that they are not confined to vehicles used in moving interstate traffic, but embrace vehicles used in moving intrastate traffic. The answer to this question depends upon another, which is, Is there a real or substantial relation or connection between what is required by these acts in respect of vehicles used in moving intrastate traffic and the object which the acts obviously are designed to attain, namely, the safety of interstate commerce and of those who are employed in its movement? Or, stating it in another way, Is there such a close or direct relation or connection between the two classes of traffic, when moving over the same railroad, as to make it certain that the safety of the interstate traffic and of those who are employed in its movement will be promoted in a real or substantial sense by applying the requirement of these acts to vehicles used in moving the traffic which is intrastate as well as those used in moving that which is interstate? If the answer to this question, as doubtfully stated, be in the affirmative, then the principal question must be answered in the same way. And this is so, not because Congress possesses any power to regulate intrastate commerce as such, but because its power to regulate interstate commerce is plenary and competent to be exerted to secure the safety of the persons and property transported therein and of those who are employed in such transportation, no matter what may be the source of the dangers which threaten it. That is to say, it is no objection to such an exertion of this power that the dangers intended to be avoided arise, in whole or in part, out of matters connected with intrastate commerce."

## EXHIBIT B.

SIXTY-THIRD CONGRESS, SECOND SESSION.—S. 387.

IN THE HOUSE OF REPRESENTATIVES.

JUNE 9, 1914.—Referred to the Committee on Interstate and Foreign Commerce.

AN ACT Relating to bills of lading.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States, or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this act.



SEC. 2. That every bill must embody within its written or printed terms—

- (a) The date of its issue;
- (b) The name of the person from whom the goods have been received;
- (c) The place where the goods have been received;
- (d) The place to which the goods are to be transported;
- (e) A statement whether the goods received will be delivered to a specified person or to the order of a specified person;
- (f) A description of the goods or of the packages containing them; and
- (g) The signature of the carrier.

An order bill shall have the words "order of" printed thereon immediately before the name of the person upon whose order the goods received are deliverable.

A carrier shall be liable to any person injured thereby for the damage caused by the omission from an order bill of any of the provisions required in this section.

SEC. 3. That a carrier may insert in a bill issued by him any other terms and conditions: *Provided*, That such terms and conditions shall not be contrary to law or public policy.

SEC. 4. That a bill in which it is stated that the goods are consigned or destined to a specified person is a straight bill.

SEC. 5. That a bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill is an order bill. Any provision in such a bill that it is nonnegotiable shall not affect its negotiability within the meaning of this act.

SEC. 6. That order bills issued in a State for the transportation of goods to any place in the United States on the continent of North America, except Alaska and Panama, shall not be issued in parts or sets. If so issued, the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts: *Provided, however*, That nothing contained in this section shall be interpreted or construed to forbid the issuing of order bills in parts or sets for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries, or to impose the liabilities set forth in this section for so doing.

SEC. 7. That when more than one order bill is issued in a State for the same goods to be transported to any place in the United States on the continent of North America, except Alaska and Panama, the word "duplicate," or some other word or words indicating that the document is not an original bill, shall be placed plainly upon the face of every such bill except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill: *Provided, however*, That nothing contained in this section shall in such case for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries be interpreted or construed so as to require the placing of the word "duplicate" thereon, or to impose the liabilities set forth in this section for failure so to do.

SEC. 8. That a straight bill shall have placed plainly upon its face by the carrier issuing it "non-negotiable" or "not negotiable."

This section shall not apply, however, to memoranda or acknowledgments of an informal character.

SEC. 9. That the insertion in an order bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

SEC. 10. That except as otherwise provided in this act, where a consignor receives a bill and makes no objection to its terms or conditions at the time he receives it, neither the consignor, nor any person who accepts delivery of the goods, nor any person who seeks to enforce any provisions of the bill, shall be allowed to deny that he is bound by such terms and conditions so far as they are not contrary to law or public policy.

SEC. 11. That a carrier, in the absence of some lawful excuse, is bound to deliver the goods upon a demand made either by the consignee named in the bill for the goods or, if the bill is an order bill, by the holder thereof, if such demand is accompanied by—

- (a) An offer in good faith to satisfy the carrier's lawful lien upon the goods;
- (b) An offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is an order bill; and
- (c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods, in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.



SEC. 12. That a carrier is justified, subject to the provisions of the three following sections, in delivering goods to one who is—

- (a) A person lawfully entitled to the possession of the goods, or
- (b) The consignee named in a straight bill for the goods, or
- (c) A person in possession of an order bill for the goods, by the terms of which the goods are deliverable to his order; or which has been indorsed to him, or in blank by the consignee, or by the mediate or immediate indorsee of the consignee.

SEC. 13. That where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section; and though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

- (a) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or
- (b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

Such requests or information, to be effective within the meaning of this section, must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such request or information, and must be given time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods.

SEC. 14. That except as provided in section twenty-nine, and except when compelled by legal process, if a carrier delivers goods for which an order bill has been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto.

SEC. 15. That except as provided in section twenty-nine, and except when compelled by legal process, if a carrier delivers part of the goods for which an order bill had been issued and fails either—

- (a) To take up and cancel the bill, or
- (b) To place plainly upon it a statement that a portion of the goods has been delivered with a description which may be in general terms either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto.

SEC. 16. That any alteration, addition, or erasure in a bill after its issue without authority from the carrier issuing the same, either in writing or noted on the bill, shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to the original tenor.

SEC. 17. That where an order bill has been lost or destroyed a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction; and upon the giving of a bond, with sufficient surety, to be approved by the court, to protect the carrier or any person injured by such delivery from any liability or loss incurred by reason of the original bill remaining outstanding, the court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees.

The delivery of the goods under an order of the court, as provided in this section, shall not relieve the carrier from liability to a person to whom the order bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

SEC. 18. That a bill, upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed, plainly shall impose upon the carrier issuing the same liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability.

SEC. 19. That no title to goods or right to their possession asserted by a carrier for his own benefit shall excuse him from liability for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien.

SEC. 20. That if more than one person claim the title or possession of goods, the carrier may require all known claimants to interplead, either as a defense to an action



brought against him for nondelivery of the goods or as an original suit, whichever is appropriate.

SEC. 21. That if some one other than the consignee or the person in possession of the bill has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods either to the consignee or person in possession of the bill or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

SEC. 22. That except as provided in the two preceding sections and in section twelve no right or title of a third person, unless enforced by legal process, shall be a defense to an action brought by the consignee of a straight bill or by the holder of an order bill against the carrier for failure to deliver the goods on demand.

SEC. 23. That when goods are loaded by a carrier such carrier shall count the packages of goods, if package freight, and ascertain the kind and quantity if bulk freight, and such carrier shall not, in such cases, insert in the bill of lading "Shipper's load and count," or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

SEC. 24. That when goods are loaded by a shipper, at a place where the carrier maintains an agency, such carrier shall, on written request of such shipper, and when given a reasonable opportunity by the shipper so to do, count the packages of goods if package freight and ascertain the kind and quantity if bulk freight, within a reasonable time after such written request, and such carrier shall not, in such cases, insert in the bill of lading "Shipper's load and count," or other words of like purport indicating that the goods were loaded by the shipper and the description of them made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

SEC. 25. That if a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to (a) the consignee named in a straight bill or (b) the holder of an order bill, who has given value in good faith, relying upon the description therein of the goods, for damages caused by the nonreceipt by the carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue.

SEC. 26. That if goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner, and an order bill is issued for them, they cannot thereafter, while in the possession of the carrier, be attached by garnishment or otherwise or be levied upon under an execution unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court.

SEC. 27. That a creditor whose debtor is the owner of an order bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

SEC. 28. That if an order bill is issued the carrier shall have no lien on the goods therein mentioned except for charges on those goods for freight, storage, demurrage, and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier.

SEC. 29. That after the goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods themselves to the consignee or owner of the goods, or to a holder of the bill given for the goods when they are shipped, even if such bill be an order bill.

SEC. 30. That an order bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank.

SEC. 31. That an order bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiation may be made in like manner.



SEC. 32. That a bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby. A straight bill can not be negotiated, and the indorsement of such a bill gives the transferee no additional right.

SEC. 33. That an order bill may be negotiated by any person in possession of the same, however such possession may have been acquired, if by the terms of the bill the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery.

SEC. 34. That a person to whom an order bill has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value; and

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him.

SEC. 35. That a person to whom a bill has been transferred but not negotiated acquires thereby as against the transferor the title to the goods, subject to the terms of any agreement with the transferor. If the bill is a straight bill such person also acquires the right to notify the carrier of the transfer to him of such bill and thereby to become the direct obligee of whatever obligation the carrier owed to the transferor of the bill immediately before the notification.

Prior to the notification of the carrier by the transferor or transferee of a straight bill the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time, with the exercise of reasonable diligence, to communicate with the agent or agents having actual possession or control of the goods.

SEC. 36. That where an order bill is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.

SEC. 37. That a person who negotiates or transfers for value a bill by indorsement or delivery, unless a contrary intention appears, warrants—

(a) That the bill is genuine;

(b) That he has a legal right to transfer it;

(c) That he has a knowledge of no fact which would impair the validity or worth of the bill;

(d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied if the contract of the parties had been to transfer without a bill the goods represented thereby.

SEC. 38. That the indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations:

SEC. 39. That a mortgagee or pledgee or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or warrant the genuineness of such bill or the quantity or quality of the goods therein described.

SEC. 40. That the validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession of the same by fraud, accident, mistake, duress, or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated, gave value therefor in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress, or conversion.

SEC. 41. That where a person, having sold, mortgaged, or pledged goods which are in a carrier's possession and for which an order bill has been issued, or having sold,



mortgaged, or pledged the order bill representing such goods, continues in possession of the order bill, the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

SEC. 42. That where an order bill has been issued for goods no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transitu. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation.

SEC. 43. That, except as provided in section forty-two, nothing in this act shall limit the rights and remedies of a mortgagee or lien holder whose mortgage or lien on goods would be valid, apart from this act, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them.

SEC. 44. That any person who, knowingly or with intent to defraud, falsely makes, alters, forges, counterfeits, prints, or photographs any bill of lading, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed, or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed, or photographed, or aids in making, altering, forging, counterfeiting, printing, or photographing, or uttering or publishing the same, or issues or aids in issuing or procuring the issue of, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who, with intent to defraud, violates or fails to comply with, or aids in any violation of, or failure to comply with any provision of this act, shall be guilty of a misdemeanor, and, upon conviction, shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding \$5,000, or both.

SEC. 45. That in any case not provided for in this act the rules of law and equity, including the law merchant, shall govern.

SEC. 46. First. That in this act, unless the context or subject matter otherwise requires—

"Action" includes counterclaim, set-off, and suit in equity.

"Bill" means bill of lading governed by this act.

"Consignee" means the person named in the bill as the person to whom delivery of the goods is to be made.

"Consignor" means the person named in the bill as the person from whom the goods have been received for shipment.

"Goods" means merchandise or chattels in course of transportation or which have been or are about to be transported.

"Holder" of a bill means a person who has both actual possession of such bill and a right of property therein.

"Order" means an order by indorsement on the bill.

"Owner" does not include mortgagee or pledgee.

"Person" includes a corporation or partnership, or two or more persons having a joint or common interest.

To "purchase" includes to take as mortgagee and to take as pledgee.

"Purchaser" includes mortgagee and pledgee.

"State" includes any Territory, district, insular possession, or isthmian possession.

Second. A thing is done "in good faith" within the meaning of this act when it is in fact done honestly, whether it be done negligently or not.

SEC. 47. That the provisions of this act do not apply to bills made and delivered prior to the taking effect thereof.

SEC. 48. That the sections of this act are independent and severable, and the declaring of any section or sections unconstitutional shall not impair or render unconstitutional any other section.

SEC. 49. That this act shall take effect on the first day of January, nineteen hundred and fifteen.

Passed the Senate June 5 (calendar day, June 6), 1914.

Attest:

JAMES M. BAKER, *Secretary*.



## EXHIBIT C.

SIXTY-THIRD CONGRESS, FIRST SESSION.—H. R. 8755.

IN THE HOUSE OF REPRESENTATIVES.—OCTOBER 7, 1918.

Mr. Edwards introduced the following bill, which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL To repeal an act to establish a uniform system of bankruptcy throughout the United States, approved July first, eighteen hundred and ninety-eight, and all amendments thereto.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act approved July first, eighteen hundred and ninety-eight, entitled "An act to establish a uniform system of bankruptcy throughout the United States," and all amendments thereto, be, and the same are hereby repealed: *Provided*, That no proceedings under said bankruptcy act begun prior to the passage hereof shall be affected by this act.

## EXHIBIT D.

SIXTY-THIRD CONGRESS, SECOND SESSION.—H. R. 11327.

IN THE HOUSE OF REPRESENTATIVES.—JANUARY 12, 1914.

Mr. Tribble introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL To repeal "An act to establish a uniform system of bankruptcy throughout the United States," approved July first, eighteen hundred and ninety-eight, amendments approved February fifth, nineteen hundred and three, and June fifteenth, nineteen hundred and six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act creating the bankrupt law and amendments thereto, entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July first, eighteen hundred and ninety-eight, and amendments thereto, as amended by an act approved February fifth, nineteen hundred and three, and as further amended by an act approved June fifteenth, nineteen hundred and six, be, and the same is hereby, repealed.

## EXHIBIT E.

SIXTY-THIRD CONGRESS, SECOND SESSION.—H. R. 12867.

IN THE HOUSE OF REPRESENTATIVES.—FEBRUARY 3, 1914.

Mr. Connelly of Kansas introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL To repeal the bankruptcy act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the bankruptcy act, being Thirtieth Statutes at Large, page five hundred and forty-four and the following, of date July first, eighteen hundred and ninety-eight, and all acts and parts of acts amendatory thereto and thereof, be, and the same are hereby, repealed from and after the passage of this act: *Provided*, That after the passage of this act no new cases, matters, or proceedings shall be filed in bankruptcy, but all matters and cases already filed or pending in any bankruptcy court shall be finished, completed, settled, and wound up in the same manner as provided by said bankruptcy act.



## EXHIBIT F.

SIXTY-THIRD CONGRESS, SECOND SESSION.—H. R. 14582.

IN THE HOUSE OF REPRESENTATIVES.—MARCH 13, 1914.

Mr. Dent introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL To amend an act to establish a uniform system of bankruptcy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act of July first, eighteen hundred and ninety-eight, and amendments thereto, providing for a uniform system of bankruptcy throughout the United States, be amended so as to add to section fourteen thereof the following proviso:

“*Provided*, That wherever any person who has heretofore been adjudged a bankrupt has failed to file an application for a discharge within the time now prescribed by law, all such persons shall have the right to apply to the court in which the adjudication of bankruptcy was made for a discharge within twelve months from the passage of this act, and the same proceedings shall be had upon such application as if the application had been filed within the time now prescribed by law: *Provided further*, That the court may tax the costs of such application in its discretion.”

## EXHIBIT G.

SIXTY-THIRD CONGRESS, SECOND SESSION.—H. R. 16812.

IN THE HOUSE OF REPRESENTATIVES.—MAY 25, 1914.

Mr. Mott introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL To amend an act entitled “An act to establish a uniform system of bankruptcy throughout the United States,” approved July first, eighteen hundred and ninety-eight, as amended by an act approved February fifth, nineteen hundred and three, and as further amended by an act approved June fifteenth, nineteen hundred and six, and an act approved June twenty-fifth, nineteen hundred and ten.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That section twenty-five of the act entitled “An act to establish a uniform system of bankruptcy throughout the United States,” approved July first, eighteen hundred and ninety-eight, as amended by an act approved February fifth, nineteen hundred and three, and as further amended by an act approved June fifteenth, nineteen hundred and six, and by an act approved June twenty-fifth, nineteen hundred and ten, be, and the same is hereby, amended by adding a new subdivision, to be known as subdivision *e*, so as to read as follows:

“(e) A petition for a review of an order or finding of a referee must be filed with the referee within thirty days of the service of notice of granting and filing such order or finding.”

## EXHIBIT H.

SIXTY-THIRD CONGRESS, SECOND SESSION.—H. R. 10309.

IN THE HOUSE OF REPRESENTATIVES.—DECEMBER 11, 1913.

Mr. Borland introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.

A BILL To amend an act to regulate commerce by forbidding common carriers from limiting the time for filing claims.

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled.* That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State shall issue a receipt or bill of lading therefor and shall be liable to the lawful holder thereof for any



loss, damage, or injury to such property caused by it or by any common carrier, railroad or transportation company to which such property may be delivered or over whose line or lines such property may pass.

It shall be unlawful for any common carrier to provide, by rule, contract, or regulation, a shorter period for giving notice of claims than ninety days, and for the filing of claims for a shorter period than four months, and for the institution of suits than two years: *Provided, however*, That if the loss, damage, or injury complained of was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claim shall be required as a condition precedent to recovery.

It shall be unlawful for any common carrier, by receipt, rule, contract, or regulation, to exempt itself from the full amount of damage caused by it or by any carrier, railroad, or transportation company over which the property may pass, or from the liabilities hereby imposed: *Provided, however*, That, in the enforcement of the liability hereby imposed, the holder of such receipt or bill of lading shall have all the rights and remedies existing under the laws of the State where the suit is instituted.

## EXHIBIT I.

SENATE REPORT NO. 407. SIXTY-THIRD CONGRESS, SECOND SESSION.

ACT TO REGULATE COMMERCE.

APRIL 6, 1914.—Ordered to be printed.

Mr. Robinson, from the Committee on Interstate Commerce, submitted the following

### REPORT.

[To accompany S. 4522.]

The Committee on Interstate Commerce, having had under consideration the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February fourth, eighteen hundred and eighty-seven, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June twenty-ninth, nineteen hundred and six, beg to report the same back with the following amendments:

On page 3, line 4, after the word "State," first occurrence, insert "Territory or the District of Columbia."

In the same line, after the word "State," second occurrence, insert "or Territory or from a point in a State or Territory, to a point in the District of Columbia, or for transportation wholly within a Territory."

On page 3, line 6, strike out the words "actual value of such property" and insert in lieu thereof "actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass."

On page 3, line 13, after the word "*however*," insert "That, except as to ordinary live stock, if such property so offered and received for transportation"; and

Strike out of lines 13 and 14 the words "That if the property so offered and received for transportation."

On page 3, line 15, after the word "or" insert "by other means, or if express authorization has been heretofore granted or shall be hereafter granted by the Interstate Commerce Commission for the establishment and maintenance of rates for the transportation thereof dependent upon the value of the property shipped, as stated in writing by the consignor and reference given in the rate schedule to such authorization, then."

On page 3, line 15, strike out the word "*Otherwise*."

On page 3, at the end of the bill, insert as a new paragraph:

"That this act shall take effect and be in force from ninety days after its passage."

The committee recommends that said amendments be agreed to, and that the bill as so amended do pass.

The object of this legislation is to make carriers engaged in interstate commerce liable for the actual loss, damage, or injury to such property caused by them, notwithstanding any limitation of liability or of the amount of recovery in any receipt or bill of lading or in any tariff filed with the Interstate Commerce Commission, save in one or two cases: First, where the property received for transportation is hidden from view



by wrapping or boxing; and, second, save in such cases and as to such commodities as the Interstate Commerce Commission has heretofore or shall hereafter authorize rates for transportation dependent upon the value of the property shipped, as stated in writing by the consignor.

The bill, with a number of other similar measures introduced from time to time by the Senator from Iowa (Mr. Cummins) relating to the same subject matter, was referred to a subcommittee composed of Senators Robinson, Myers, and Cummins. The subcommittee had hearings which were participated in by representatives of carriers, including railroad companies and express companies engaged in interstate commerce.

While at common law carriers could not escape the consequences of their negligence by stipulating for a release of liability, either in whole or in part, yet the common law, as interpreted by the Supreme Court of the United States, and by the appellate court of some States, recognized as valid agreements between shippers and common carriers limiting the liability of the carrier to an agreed amount. In some cases the limitation was sustained on the theory that the shipper was estopped by his representations of value to claim a large amount, and in other cases upon the theory that the shipper had received a lower rate for the transportation of his property than would have been given him had the actual value been stated. Many States have statutes forbidding such limitations and requiring carriers to respond in the full amount of loss, damage, or injury occasioned by their negligence, and in some States the courts of last resort construed the common law to forbid such limitation.

The Supreme Court of the United States held in the case of the Pennsylvania Railroad Co. *v.* Hughes (191 U. S., 477) that, notwithstanding it had held in many decisions to the contrary, the decision of the Supreme Court of Pennsylvania in that case to the effect that all agreements limiting the liability to less than the actual loss or damage were void at common law should govern and be affirmed, and in the case of *Solan v. Chicago, Milwaukee & St. Paul Railroad Co.* (169 U. S., 133) the Supreme Court of the United States affirmed the decision of the Supreme Court of Iowa, which held valid a statute that forbade any limitation of the liability of a carrier for negligence and requiring it to pay full amount of loss, damage, or injury.

The so-called Carmack amendment, adopted in 1906, construed by the Supreme Court of the United States in the case of *Adams Express Co. v. Groninger*, and in other cases, had the effect of abrogating State laws forbidding limitations in bills of lading and receipts on the liability of carriers for negligence and consequent damage or injury to property transported in interstate commerce. The amendment was held to be a Federal regulation of interstate commerce, dealing with the rights of carriers and shippers under bills of lading and not prescribing full liability for damage or injury to property transported in interstate commerce, and that limitations of recovery to less than actual loss or damage caused by the carrier in bills of lading or receipts are valid.

It is, of course, necessary, where the property shipped is hidden from view by wrapping, that the representation as to the value made by the shipper shall in all cases be binding upon him. This exception covers a large number of articles shipped in interstate commerce, and especially many of those carried by express companies.

There are some commodities which from their very nature the value of them can not be known to the carrier, and is peculiarly within the knowledge of the shipper. The carrier is compelled to rely upon the representations as to value made by the shipper. We have, therefore, recommended the adoption of an amendment providing that where the Interstate Commerce Commission has already authorized rates based upon the value as represented by the shipper, or where the commission shall hereafter do so, the liability for loss or damage caused by the carrier shall be limited to the value as thus represented.

The committee believes that no valid reason exists for authorizing limitations of liability on the part of carriers in contracts for the shipment of ordinary livestock, and if this legislation passes, carriers will hereafter be required to respond in the full amount of damage or injury occasioned to ordinary live stock while being shipped in interstate commerce, such property being expressly excepted from the provision authorizing the Interstate Commerce Commission to establish rates based on value whereby recovery is limited to a declared value. It is believed that the effect of the legislation will be to establish natural, reasonable, and just rules governing the liability of carriers for loss or damage to property caused by their negligence.



## EXHIBIT J.

SIXTY-THIRD CONGRESS, SECOND SESSION.—S. 4522.

IN THE HOUSE OF REPRESENTATIVES.

JUNE 9, 1914.—Referred to the Committee on Interstate and Foreign Commerce.

AN ACT To amend an act entitled "An act to amend an act entitled 'An act to regulate Commerce,' approved February fourth, eighteen hundred and eighty-seven, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June twenty-ninth, nineteen hundred and six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That so much of section seven of an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February fourth, eighteen hundred and eighty-seven, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June twenty-ninth, nineteen hundred and six, as reads as follows, to wit:

"That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or a bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered, or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed: *Provided*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law," be, and the same is hereby, amended so as to read as follows, to wit:

"That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State or Territory or the District of Columbia to a point in another State, Territory, District of Columbia, or foreign country shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; and any such common carrier, railroad, or transportation company so receiving property for transportation from a point in one State, Territory, or the District of Columbia to a point in another State or Territory, or from a point in a State or Territory to a point in the District of Columbia, or to a foreign country, or for transportation wholly within a Territory shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void: *Provided, however*, That if the goods are hidden from view by wrapping, boxing, or other means, and the carrier is not notified as to the character of the goods, the carrier may require the shipper to specifically state in writing the value of the goods, and the carrier shall not be liable beyond the amount so specifically stated, in which case the Interstate Commerce Commission may establish and maintain rates for transportation, dependent upon the value of the property shipped as specifically stated in writing by the shipper. Such rates shall be published as are other rate schedules: *Provided further*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided further*, That it shall be unlawful for any common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than ninety days, and for the filing of claims for a shorter period than four months, and for the institution of suits than two years: *Provided, however*, That if the loss, damage, or injury complained of was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claim shall be required as a condition precedent to recovery."



SEC. 2. That this act shall take effect and be in force from ninety days after its passage.

Passed the Senate June 4, 1914.

Attest:

JAMES M. BAKER, *Secretary*.

## EXHIBIT K.

### MADRID CONFERENCE, 1913.

#### LEGISLATIVE RESTRICTIONS ON DECK CARGOES OF HEAVY WOOD—REPORT TO THE COUNCIL OF THE INTERNATIONAL LAW ASSOCIATION.

At the meeting of the International Law Association held in Paris on May 29, 1912, a paper was read by Mr. Robert Temperley calling attention to the anomalous and unsatisfactory position now existing with regard to the legislative restrictions on the carriage of deck cargoes of timber, and urging the need for international regulations on the subject. The paper was followed by a discussion, as the result of which the following resolution was passed:

“That this conference resolves that the executive council of this association should respectfully recommend to the attention of the governments the urgent importance of the cooperation of governments in arriving at an agreement upon the subject of deck loads, and especially deck loads of heavy wood in winter months.”

The subject having been referred to us for further elucidation and inquiry, we have thought that we could best assist the association by obtaining definite information—

I. As to the present state of the law in the various countries concerned; and

II. As to the effect of the existing legal situation on the practical conduct of the trades concerned.

We are particularly referred by the resolution to the case of deck cargoes of heavy wood, the chief trade in which is from the American Gulf ports to Europe; and both for the sake of simplicity and because this case affords the most striking instances of the need for some international understanding on the subject, we propose to confine our observations to such cargoes alone.

### I.

The result of our inquiry into the present state of the law in each of the principal countries concerned may be stated as follows:

#### UNITED STATES OF AMERICA.

There is no restriction in American law upon the size of deck cargoes which may be loaded or discharged in American ports.

#### FRANCE, BELGIUM, AND SWEDEN.

There is no restriction in French, Belgian, or Swedish law upon the size of deck cargoes which may be loaded or discharged in the ports of those countries.

#### HOLLAND.

*Foreign ships.*—No restrictions.

*Dutch ships.*—Article 35 of the royal decree of 22d September, 1909 (which follows and completes the Loi des Navires of 1st July, 1909), prescribes the rules under which timber may be carried in Dutch vessels. The article is as follows:

“ARTICLE 35.—1. Pour le service de charges de bois à un poids surmontant 5 pour cent du port du navire, l'on a besoin outre le certificat ordinaire d'un certificat spécial pour le transport de bois, lequel pourra être délivré sur la demande du propriétaire par la commission mentionnée à l'article précédent, à condition que l'on puisse démontrer à la satisfaction de la dite commission que le navire en question se trouve en bon état de navigabilité et offre les garanties d'une stabilité suffisante au transport de charges de bois; que le bastingage ainsi que le pont soient d'une solidité suffisante à ce service et de bonne construction; que les réduits de l'équipage soient accessibles en tous cas et par conséquent également en cas de déplacement de la charge du pont; que l'arrangement et la composition des appareils à gouverner assurent suffisamment la gouvernabilité du navire en toutes circonstances; que se trouve sur le pont d'arrière un arbre à vapeur en cas que le charge serait trop haut



pour faire passer un filin d'un des arbres à vapeur vers la partie d'arrière et qu'il soit en plus satisfait aux règles concernant le certificat spécial, à définir éventuellement plus amplement par Nous.

"2. Pour en navire satisfaisant aux dites conditions, la commission pourra permettre exclusivement pour le transport de bois une diminution du francbord normal visé à l'article 34. L'on fera mention de cette diminution de francbord dans le certificat spécial et on l'indiquera à la carène des deux côtés du navire par une marque spéciale qui, sous la contrôle des fonctionnaires de l'inspection maritime, doit être apposée à tribord deux mètres en avant de la marque normale et à bâbord deux mètres en arrière de cette marque.

"3. Ce certificat spécial peut toujours être révoqué par Nous, si la commission sus-dite en juge les arguments présents."

From this it will be seen that a Dutch vessel may not carry a deck load of timber exceeding 5 per cent of her deadweight capacity unless she has obtained from a committee appointed for the purpose a special certificate that she fulfills the structural conditions necessary to constitute her a timber-ship within the meaning of article 35. If, however, this special certificate has been obtained, then the certified vessel when carrying a full deck load of timber may be allowed by the committee to be loaded more deeply in the water than would be permitted if she were carrying any other description of cargo. The principle of this arrangement would appear to be, as stated by the association's Dutch correspondent on the subject, that "vessels fulfilling the special requirements for loading timber on deck and loaded with a full deck load of timber, practically become spar-deck vessels, and for those vessels the allowance of less freeboard (to the extent thought fit by the committee) does not interfere in the least with the safety or seaworthiness of the ship." It is to be observed that the claim of every vessel to this special certificate is specially considered in each case by the committee with due regard to her exact type and construction; and we are informed that in many cases where claims have been preferred no reduction in freeboard has been allowed.

#### NORWAY.

*Foreign ships.*—[No restrictions appear to exist.]

*Norwegian ships.*—The regulations affecting the carriage of timber deck cargoes by Norwegian vessels are contained in Part XII of the law of the public supervision with regard to the seaworthiness of ships, dated the 9th June, 1903, and confirmed by royal ordinance on the 18th September, 1909. We append a translation of the provisions in question, from which it will be seen that the system of a special freeboard for timber-ships is adopted, and that no restriction is placed upon the height or weight of the deck cargo as such, except (sec. 74) that it must not obstruct the safe navigation and management of the ship.

#### *Part XII—Wood cargo ships.*

"SEC. 70.—*Special freeboard for wood cargo ships.*—Steamers satisfying the subjoined special requirements to wood cargo-ships shall—besides the ordinary deadweight freeboards previously prescribed—have a special wood cargo freeboard assigned for summer trade and one for winter trade, and one for winter trade North Atlantic, which freeboards mark the deepest permissible loading of these ships with 'light wood goods' in holds and on deck.

"In the holds, however, a mixed cargo and 'heavy wood goods' may be carried by the ship, without losing her right to benefit by the wood cargo freeboard, but at least two-thirds of the hold cargo (by weight) must always consist of 'light wood goods.' The wood cargo freeboard for summer is in force for voyages between April 1 and October 31, and the wood cargo freeboard for winter and for winter North Atlantic, *i. e.*, between European or Mediterranean ports and American ports north of Cape Hatteras, is in force for voyages between November 1 and March 31.

"The term 'wood cargo ships' is in these regulations intended to mean flush-deck ships with double-bottom water-ballast tanks and with erections (amongst which always a forecastle) the combined length of which are at least two-tenths of the ship's length on deep-load line.

"Furthermore, these ships must, with respect to means for the securing of the deck cargo, and for the protection of the crew, and with respect to stability, at least satisfy the requirements as subjoined.

"The term 'light wood goods' is herein intended to mean pine, fir, spruce, or similar light kinds of wood or wood goods.

"All other wood goods are to be considered as 'heavy wood goods' in which, amongst others, are reckoned pitch pine, mahogany, oak, &c."



"SEC. 71.—*Deck cargo*.—In wood cargo ships loading deeper than allowed by the deadweight freeboard, no single part or piece of the deck cargo must, during winter, exceed 15 cubic feet, nor must, during summer, any part of the deck cargo exceeding these dimensions be carried higher than the bulwarks.

"By the term 'deck cargo' shall be understood cargo carried either on an open part of the deck, or upon a covered part of the deck, which is not included in the cubic contents constituting the ship's register tonnage."

"SEC. 72.—*The assignment of wood cargo freeboard*.—1. The wood cargo freeboard for summer is determined by making a reduction in the ordinary deadweight summer freeboard of the ship, the amount of which is determined as a percentage of the difference between the deadweight summer freeboard and the summer freeboard that the ship, in case it were wholly covered with erections (awning-deck ship), would obtain by Table C, the latter corrected for length.

"The amount of the percentage depends upon the ship's moulded depth. It is given in the following table:

Moulded depth.		Percentage.
Ft.	ins.	
12	0 and under.....	80
15	0 ".....	73
18	0 ".....	66
21	0 ".....	52
24	6 ".....	26
28	0 ".....	0

"For intermediate values of the ship's moulded depth the percentage must be determined by interpolation.

"2. The wood cargo freeboard for winter is determined by making an addition to the wood cargo freeboard for summer, the amount of which is given in the subjoined table, according to the ship's moulded depth.

Moulded depth.	14 ft. 0 in.	14 ft. 6 in.	18 ft. 6 in.	21 ft. 0 in.	24 ft. 0 in.	26 ft. 0 in.
	and less.	to 18 ft. 0 in.	to 20 ft. 6 in.	to 23 ft. 6 in.	to 25 ft. 6 in.	to 28 ft. 0 in.
Addition for winter in inches.....	1½	2	2½	3	3½	4

"3. The wood cargo freeboard for trade in winter North Atlantic is determined by making a similar addition to the winter wood cargo freeboard, as has been made to the deadweight freeboard for the same trade. See section 60, 2.

"4. The allowance on the wood cargo freeboard for loading in fresh water is determined in the same way as directed for the deadweight freeboard. See section 60, 4.

"The freeboard thus found may have to be increased by reason of openings in the outer plating (the shell), in which case the same rules apply as when computing a deadweight freeboard. See Part IX."

"SEC. 73.—*Stability*.—If a ship, assumed to be loaded down to the summer freeboard as determined by these regulations, with a homogeneous cargo of a weight of 2¼ tons pr. Petersburg standard in hold and on deck, and with full water-ballast tanks in the double bottom (high tanks and peak tanks not included), proves not to have a metacentre height of at least 6 inches, then the wood cargo freeboard will have to be increased, until such a metacentre height is obtained.

"A Petersburg standard is assumed to occupy a space, including stowage, of 215 cubic feet in the hold and 200 cubic feet on deck (after deducting space for winches, hatches, etc.)."

"SEC. 74.—*The height of the deck cargo*.—The deck cargo must never be so high as to obstruct the view for the man at the wheel, or from the bridge, neither must the deck cargo be so placed, generally, as in any way to prevent the safe manœuvring or navigating of the ship, or to hamper the access to boats and other life-saving appliances."

"SEC. 75.—*The securing of the deck load*.—In ships with wood cargo freeboard the deck load must be secured in a specially reliable manner. The means for securing may be portable, but they must be of a permanent character up to a height corresponding to the height of the erection above the upper deck, and the deck load up to this height must be lashed independent of the other deck load.

"Such securing may be effected by placing vertical iron standards or stanchions, suitably spaced, and efficiently fastened to the deck and the bulwarks. These latter must be of special strength. The vertical stanchions should, at their upper ends, have longitudinal connections attached to the erections.

"A plan of this or any similar arrangement intended to be used must be submitted to the Mercantile Marine Department for approbation.



"When a ship carries a deck load, the pieces of which are less than 6 feet long, extra means of securing it must be used."

"SEC. 76.—*Openings in bulkheads.*—Doors and other openings in bulkheads, towards a deck, upon which a deck load is being carried, shall be closed. If the crew's quarters or other compartments, which must be accessible during the passage, are situated in the erection in question, access to these must be given from above."

"SEC. 77.—*Temporary rails or bulwarks above the deck load.*—1. When wood cargo is being carried on an open part of the deck, there shall be fitted on each side of the ship, temporary rails or bulwarks of a substantial character for the full length within which the deck cargo is being stowed, extending to a height of not less than 4 feet above the line of the top of the deck cargo.

"2. The uprights of such temporary rails or bulwarks shall be of substantial scantlings reliably fastened and be placed not more than 4 feet apart.

"3. There shall be attached longitudinally to these uprights for the full length of the deck cargoes, spars, deals, battens, guard ropes or chains, at intervals of not more than 12 inches vertically. If ropes or chains are being used, they shall be set up taut, and be securely attached to each upright.

"4. The temporary rails or bulwarks may consist of closely spaced vertical deals, provided they are properly secured, and that there are protected openings at suitable intervals for water clearance."

"SEC. 78.—*The affixing of the wood cargo freeboard marks.*—The freeboard assigned for wood cargoes shall be marked on both sides of the ship in the following manner:

"At a distance of 21 inches abaft the center of the disc dealt with in section 64, a vertical line is to be drawn, and from this line again a horizontal line is to be drawn pointing forwards, the upper edge of which marking the wood cargo freeboard for summer in fresh water, and three horizontal lines pointing aftwards, the upper edge of which marking the freeboard for summer, for winter, and for winter North Atlantic.

"Abreast of each of the four lines the freeboard in question is indicated, respectively, by the initials:

T. S.....	Wood cargo—summer.
T. V.....	Wood cargo—winter.
T. V. A.....	Wood cargo winter North Atlantic.
T. F. V.....	Wood cargo fresh water.

"About the length, thickness, and affixing of the lines the same rule applies as prescribed for deadweight freeboards in sections 64 and 65.

"The appearance of the lines and their position in relation to the rest of the loading marks is shown in diagram 12 opposite."

#### GERMANY.

*Foreign ships.*—No restriction.

*German ships.*—The "See-Berufsgenossenschaft's" regulations of 1903 still apply to German ships, the keels of which were laid before the 1st January, 1909. In these regulations ships carrying wood cargoes are specially dealt with, on the principle stated in article 13 of the regulations respecting freeboard, that "Ships carrying wood as the cargo in the hold and on deck may, if they are sufficiently stable, have a lower freeboard than that calculated according to the foregoing (that is, than that for ships carrying other cargo)." Accordingly, under these regulations, an explanatory document is issued to each steamer concerning her freeboard certificate, in the following terms:

*"Explanatory instructions concerning freeboard certificate for the steamer....."*

"In the freeboard marks provided on both the ship's sides, the deep loading lines for fresh water in winter, for voyages in the Indian and Pacific Oceans during the good season, for voyages with wood cargo and also for water, the salt contents of which lie between fresh water and sea water of specific gravity 1.025, are not given and they must consequently be estimated by the captain when loading the ship on the basis of the particulars in the certificate.

"The deduction from the freeboard with wood as cargo in the hold and on deck is as follows:

"I. In the summer:

"(a) Between the harbors of the Baltic and the North Sea  $1\frac{1}{2}$  times the fresh-water deduction.

"(b) For all other voyages the amount of the fresh-water deduction.

"II. In the winter:

"(a) Between the harbors of the Baltic and the North Sea the amount of the fresh-water deduction.



“(b) For all other voyages one-half the fresh-water deduction.

“This deduction for wood cargoes is, however, only allowed when the entire cargo in the hold and on deck consists of wood and the amount of the deck cargo is of such proportions that the ship does not during the journey take a list owing to insufficient stability, and in winter only if there is no danger of the deck cargo getting cased in ice. In ships with partial superstructure, moreover, the main deck must in no case come under water.

“HAMBURG, the.....

“THE BOARD OF THE SEE-BERUFGGENOSSENSCHAFT.

“.....Chairman.”

“The ‘See-Berufsgenossenschaft’ regulations of 1903 for the prevention of accidents also apply to these ships; and paragraph 7 of these is as follows:

“‘7. No more deck cargo may be taken than is compatible with the stability of the ship. The height of the deck cargo must be so proportioned that the ship shall likewise during the voyage not acquire any considerable list owing to insufficient stability. In winter particular attention must be given to the risk of the deck cargo getting ice coated and the increase of weight thence resulting.

“‘Cargo and spars lying on deck are to be protected from breaking loose by being strongly fastened.

“‘If the deck is filled with cargo of the entire width of the ship and the surface of the deck load is very uneven or there are gaps in it, provision must be made for the safe movements of the men over deck by walking planks laid down and well fastened. *Besides this, within the position of the deck cargo, a line must be stretched amidships for the men to hold on to.*

“‘If there is so much cargo on deck that the fixed railing no longer provides sufficient protection, a suitable provisional railing must be run up of spars, rigging, or the like.’”

The regulations affecting sailing ships in the long trades and affecting the short coasting trade are identical with the above, except that the sentence in italics is omitted.

For German ships the keels of which were laid after 1st January, 1909, the “See-Berufsgenossenschaft’s” freeboard regulations of 1908 hold good. These regulations, which were issued as a result of negotiations with England and France, correspond in essentials with the freeboard regulations of those countries. But it is important to observe that the special treatment of ships with wood cargoes which was embodied in the regulations of 1903 has been entirely omitted from those of 1908. German ships, therefore, whose keels were laid since the 1st January, 1909, have no special load line for timber, since the latest German regulations make no distinction in that respect between timber and any other form of cargo.

#### RUSSIA.

There are at present no restrictions in Russian law upon the size of deck cargoes which may be loaded or discharged in Russian ports. It appears, however, that in 1912 the Russian Government formulated regulations of a drastic character with reference to timber deck loads, the operation of which, on the representations of traders, has now been postponed till the 1st November, 1913. We understand, further, that a bill will shortly be presented to the Duma by the Ministry of Commerce on this subject.

*From the foregoing statement it will be seen that in no one of the countries above mentioned is there any special restriction whatever upon the height or weight of the deck cargoes of heavy timber which may be worked in their ports by British or other foreign-owned vessels; while, so far as vessels owned by their own subjects are concerned, there are in each case either no restrictions as to the size of such cargoes that may be carried on board them or provisions for granting a specially high load line which must rather encourage than discourage such carriage.*

#### UNITED KINGDOM.

In the United Kingdom, on the other hand, by section 10 of the merchant shipping act, 1906, and by the rules dated 7th February, 1907, made thereunder by the Board of Trade, these cargoes are in effect absolutely prohibited from being brought for discharge into any port in the United Kingdom from any port out of the United Kingdom in any ship, *British or foreign*, between 31st October and the 16th April in any year. The text of the section and rules in question is as follows:

“10. (1) If a ship, British or foreign, arrives between the last day of October and the 16th day of April in any year at any port in the United Kingdom from any port out of the United Kingdom, carrying any heavy or light wood goods as deck cargo



(except under the conditions allowed by this section), the master of the ship, and also the owner, if he is privy to the offence, shall be liable to a fine not exceeding five pounds for every 150 cubic feet of space in which wood goods are carried in contravention of this section.

“(2) The conditions under which heavy wood goods may be carried as deck cargo are as follows:

“(a) That they must only be carried in covered spaces; and

“(b) That they must be carried only in such class of ships as may be approved by the Board of Trade for the purposes; and

“(c) That they must be loaded in accordance with regulations made by the Board of Trade with respect to the loading thereof.

“(3) The conditions under which light wood goods may be carried as deck cargo are as follows:

“(a) Each unit of the goods must be of a cubic capacity not greater than 15 cubic feet; and

“(b) The height above the deck to which the goods are carried must not exceed—

“(i.) In the case of an uncovered space on a deck forming the top of a break, poop, or other permanent closed-in space on the upper deck, 3 feet above the top of that closed-in space; and

“(ii.) In the case of an uncovered space, not being a space forming the top of any permanent closed-in space on the upper deck or a space forming the top of a covered space, the height of the main rail, bulwark, or plating, or one-fourth of the inside breadth of the ship, or 7 feet, whichever height is the least; and

“(iii.) In the case of a covered space the full height of that space.

“(c) Regulations may be made by the Board of Trade for the protection of seamen from any risk arising from the carriage of the goods in any uncovered space to the height allowed under this section, and these regulations must be complied with on the ship.

“(4) A master or owner shall not be liable to any fine under this section—

“(a) In respect of any wood goods which the master has considered necessary to place or keep on deck during the voyage on account of the springing of any leak, or of any other damage to the ship received or apprehended; or

“(b) If he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at the said port in the United Kingdom, but was prevented from so arriving by stress of weather or circumstances beyond his control; or

“(c) If he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the 16th day of April as allowed a reasonable interval according to the ordinary duration of the voyage for the ship to arrive after that day at the said port in the United Kingdom, and by reason of an exceptionally favorable voyage arrived before that day.

“(5) For the purposes of this section—

“(a) The expression ‘heavy wood goods’ means—

“(i.) Any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak, or other heavy wood goods whatever; or

“(ii.) Any more than five spare spars or store spars, whether or not made, dressed, and finally prepared for use; and

“(b) The expression ‘light wood goods’ means any deals, battens, or other light wood goods of any description; and

“(c) The expression ‘deck cargo’ means any cargo carried either in any uncovered space upon deck or in any covered space not included in the cubical contents forming the ship’s registered tonnage; and

“(d) The space in which wood goods are carried shall be deemed to be the space limited by the superficial area occupied by the goods, and by straight lines enclosing a rectangular space sufficient to include the goods.

“(6) Nothing in this section shall affect any ship not bound to a port in the United Kingdom which comes into any port of the United Kingdom under stress of weather, or for repairs, or for any purpose other than the delivery of her cargo.

“(7) This section shall come into operation on the passing of this act.”



*Rules as to carriage of wood as deck cargo.*

The following rules were made by the Board of Trade under the powers conferred by section 10 of the merchant shipping act, 1906, and are dated and came into force on 7th February, 1907:

"**RULE 1.**—*Classes of ships approved for the purpose of carrying heavy wood goods as deck cargo.*—The classes of ships which are approved for the purpose of carrying heavy wood goods as deck cargo are iron or steel steamships having covered spaces, that is to say, poops, bridges, forecastles, or shelter decks, which form part of the permanent structure of the ship and which comply with the following conditions:

"(a) The space must be within an erection which extends from side to side of the ship.

"(b) The outside plating must be continuous from deck to deck and throughout the full length of the space.

"(c) The length must be bounded by iron or steel partitions and the total area of the openings in any such partition must not exceed one-fourth of the area of the partition itself."

"**RULE 2.**—*Regulations with respect to the loading of heavy wood goods as deck cargo.*—1. Heavy wood goods may only be loaded in covered spaces which form part of the permanent structure of the ship and which comply with the conditions specified in the preceding rule 1.

"2. Heavy wood goods must not be loaded in any covered space in such a manner as to make the ship unfit, by reason of instability, to proceed to sea and to perform the voyage safely, having regard to the nature of the service for which she is intended.

"3. Heavy wood goods must be properly stowed and secured so as to prevent shifting."

"**RULE 3.**—*Regulations for the protection of seamen from risk arising from the carriage of wood goods as deck cargo in uncovered spaces on board ship.*—1. When wood goods are carried in an uncovered space there shall be fitted on each side of the ship temporary rails or bulwarks of a substantial character for the full length within which the deck cargo is stowed, extending to a height of not less than 4 feet above the line of the top of the deck cargo.

"2. The uprights of such temporary rail or bulwark shall be of substantial scantling and be placed not more than 4 feet apart; the heels of the uprights shall extend down to, and rest on, the deck of the vessel.

"3. There shall be attached longitudinally to these uprights for the full length of the deck cargo, spars, deals, battens, guard ropes or chains, at intervals of not more than 12 inches apart in a vertical direction. If ropes or chains are used they shall be set up taut and securely attached to each upright.

"4. The temporary rails or bulwarks may consist of closely spaced vertical deals, provided they are properly secured and that there are protected openings at intervals for water clearance.

"5. Where light wood is carried in an uncovered space (not being a space forming the top of any permanent closed-in space on the upper deck or a space forming the top of a covered space) and the uncovered space is bounded by an open rail formed of wood, iron, or steel stanchions and longitudinal rods, battens, or chains, no measures for the protection of the seamen shall be deemed sufficient if the height of such rail exceeds 3 feet 6 inches."

The stipulation in these rules that deck loads of heavy timber may not be carried on any part of an open deck, but only in permanently covered spaces as defined in rule 1, amounts in practice to an absolute prohibition of such deck cargoes at all during the winter months. It is to be observed, however, that these rules only apply to vessels actually arriving for discharge at a port in the United Kingdom and that they do not affect any ship at all under any other circumstances.

It is evident that the sharp contrast between the British regulations and those of all other countries must give rise to serious anomalies in practice. Indeed, whether the matter be considered from the point of view of the safety of ships and crews, or from that of the commercial interests involved, the practical effect of the present state of the law seems to be equally unsatisfactory.

Considering, first, the important matter of its effect on the safety of ships and men engaged in this trade, it is clear that until some international agreement on the subject has been arrived at the British regulations merely operate to keep these deck cargoes out of British ports without in any other respect preventing their carriage by sea. The deck cargoes aimed at, in short, may still be lawfully carried by any ship, British or foreign, so long as they are not brought for discharge into a British port. From the point of view of safety, therefore, the British regulations must, in the present state of the law abroad, be regarded as of no real effect whatever.



From the commercial point of view, however, their effect must be considerable. For by forcing ships with deck loads of heavy timber into foreign ports in order to discharge their deck loads before coming on to England, not only is the deck load itself withdrawn from British ports and British merchants, but the artificial restriction put upon every cargo of heavy wood brought to England must enhance the cost of such timber to the English receiver, as compared with its cost to the foreign receiver.

What this extra cost may amount to in an average year we have no means of estimating; but, having regard to the volume of the trade, it must, we think, be considerable. And it is to be observed that a charge which might cheerfully be borne if it resulted in increased safety at sea, becomes difficult to defend when, as now, it arises directly from the fact that these deck loads continue to be carried, and that no increase of safety is therefore in fact being attained.

That such anomalies are constantly felt in practice our enquiries have amply shown; and numerous illustrations could be given of the consequent difficulty, uncertainty, and hardship to shipowners, masters, seamen, and merchants.

We find, for instance, that where the master of a British ship refused to load in America a deck cargo of heavy wood in excess of the limits laid down by the British regulations, on the ground that the British regulations represented the limit of seaworthiness for his ship, his owners were held liable in damages to the continental receivers at Hamburg because, according to the German regulations, the vessel, although arriving there during the winter months, was held to be not fully loaded because she had no deck cargo.

Again, it must be a question of great difficulty for the master of a vessel which is loading for a port situated in a country which has no regulations, to decide exactly what quantity of wood it will be prudent for him to load on deck. He naturally wishes to load the maximum quantity which his vessel can safely carry but, in his endeavors to do so, it often happens that the limit is exceeded; for, as long as a vessel remains in port and in smooth water, an excessive deck load will not always become apparent and the vessel may seem to be perfectly seaworthy, but when she gets to sea and into rough water her deck load will get wet, and her unseaworthy condition will be observed by the list she will take. To correct this list and bring his vessel into an upright position the master is compelled to jettison his deck load, unless, when his vessel took the list, it was shot overboard. Apart from the grave danger to the vessel and the lives of those on board her, there is in such a case the loss of the deck load to be paid for, and it not infrequently involves much trouble and friction before the matter is finally settled.

It should be observed that a vessel which is considered perfectly seaworthy when trading to one port may, under exactly similar conditions as regards loading and equipment, be condemned as unseaworthy when trading to another but a few miles distant, although the dangers which she has to encounter are precisely the same, because the ports are situated in different countries and the regulations of those countries are different.

Whether the British regulations are too severe, or whether the foreign rules are too lax, it is outside our province to inquire. The sole purpose of this report is to draw attention to the violent disparity between the laws of the various countries concerned, and the constant difficulties which must and do arise therefrom.

It is evident that difficulties arising in such a way can only be removed by international agreement on the subject.

G. F. STEWART BOWLES.  
EUSTACE W. BRIGHTMAN.  
H. R. MILLER.  
T. WARREN MOORE.  
WALTER RUNCIMAN.  
R. TEMPERLEY.

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## EXHIBIT L.

MADRID CONFERENCE, 1913.

### REPORT OF COMMITTEE ON DECK CARGOES OF HEAVY WOOD.

At the meeting of the International Law Association held in Paris on the 29th of May, last year, a paper was read by Mr. Robert Temperley, calling attention to the anomalous and unsatisfactory position now existing with regard to legislative restrictions on the carriage of deck cargoes and the present inequalities between the law of Great Britain on the one hand, and the laws of the various continental countries on the



other, notably with regard to the carriage of heavy wood in winter. Mr. Temperley pointed out that the present state of British law amounts to an absolute prohibition—as regards ships arriving in the United Kingdom during the prescribed months—of any deck cargo of heavy wood goods. As there is no such prohibition at the ports of shipment, say, in the Gulf of Mexico, or at any of the continental ports, ships habitually cross the Atlantic with such deck cargoes and discharge them, say, at Hamburg or Rotterdam, and then come back with their under-deck cargo to British ports.

As the consequence of the discussion following the reading of this paper, the meeting, on the motion of Lord Justice Kennedy, passed the following resolution:

“That this conference resolves that the executive council of this association should respectfully recommend to the attention of the governments the urgent importance of the cooperation of governments in arriving at an agreement upon the subject of deck loads, and especially deck loads of heavy wood in winter months.”

This was followed up by our appointment as a committee to look further into the matter, and we have already presented to the executive council the accompanying memorandum, i. e., the original “report of the committee” printed for the Madrid Conference, 1913, signed by all our members but two, setting out the laws of the various maritime States on the subject, which we venture to think contains much valuable information.

On July 9, 1913, a deputation of the International Law Association waited on the Right Hon. Sydney Buxton, president of the British Board of Trade, in order to present to him the above-mentioned memorandum, and, in accordance with the Paris resolution, to urge upon His Majesty’s Government the importance of steps being taken to arrive at an international agreement upon the subject of deck loads, and especially deck loads of heavy wood in winter, and if possible of adopting international regulations on the subject.

The deputation comprised Messrs. R. B. D. Acland, K. C., judge advocate of the fleet; Sidney Boulton (Lloyds); F. R. Y. Radcliffe; K. C.; Leslie Scott, K. C., M. P.; and R. Temperley (Newcastle), with Messrs. G. G. Phillimore and T. Baty (honorary general secretaries), and was introduced by Mr. Leslie Scott.

Mr. Temperley, in presenting the memorandum, explained that though this was rather more of a practical and less of a legal matter than the subjects usually occupying the attention of the International Law Association, yet in the absence of any appropriate international organization of shipowners, it had fallen to the lot of this association to take up the matter on the suggestion of some of its members interested in shipping. Having traced the history of the movement, as above indicated, Mr. Temperley went on to supplement the memorandum by reference to a communication received by the International Law Association from Dr. Brüdgers, general secretary of the Internationaler Transport-Versicherungs-Verband, and secretary of the International Association of Marine Underwriters, from which it appeared that the proposals of the International Law Association had the strong support of the German underwriters, and that the American Marine Underwriters’ Associations had already taken steps toward procuring the voluntary working of the provisions of the British regulations as to deck cargoes, but only with partial success in the absence of legislative sanction, and that the American and German underwriters had also suggested to their respective Governments that the question of international regulation of deck loads be included in the agenda for the diplomatic conference that is to be held in London in November to discuss the question of safety at sea. Dr. Brüdgers’s memorandum was directed mainly to the regulation by law of the carriage of heavy wood deck cargoes, and he pointed out that such regulations for light wood trades was a much more difficult matter, for the reason that in these latter trades types of vessel designed specially for the carriage of deck loads of wood are in existence which can carry a considerable deck load even in winter, and which indeed only attain suitable conditions as regard stability with a deckload of considerable height. Although the International Law Association did not express any views as to whether the British regulations were or were not too severe, that being a practical question requiring expert investigation, and the association’s object being rather to obtain uniformity by means of international agreement in order to remove anomalies, yet it was pointed out that the Spanish Government had recently passed regulations practically identical with the British law, and that the action of the marine underwriters above mentioned indicated a trend of opinion in favor of the British regulations or something approximate to them. The conference at Paris included practicing shipping lawyers from various countries, representatives of mutual shipping associations, of British shipowners, and of the mercantile marine, and the desire there expressed for the international treatment of this matter was unanimous and emphatic. The same subject was also discussed at the recent conference under the auspices of the international maritime committee at Copenhagen with the like result. The time, therefore, appeared to the association to be ripe for concerted governmental action.



Mr. R. B. D. Acland, K. C., spoke of the interest in this particular topic which had been evinced at the recent Maritime Congress at Copenhagen. A unanimous resolution had been there adopted recommending the utility of an international agreement for general rules on the matter of deck loads (among other objects), and another that a permanent advisory international body would be of advantage in the matter of maritime legislation.

Mr. Sidney Boulton expressed the opinion of the English underwriters, concurring in the importance of the subject, and observing that the United States, as the principal country of export of timber, might well take the initiative in regulating its carriage, which is not performed to any appreciable extent in American-owned ships.

Mr. Leslie Scott having expressed the thanks of the deputation, the president, in the course of a sympathetic reply, observed that the department had been carefully studying the question, and that the deputation might be said to be forcing an open door so far as His Majesty's Government was concerned. The difficulty was to induce foreign countries to follow our lead, and he thought that the question might well be kept to the front in the various countries concerned in the trade. With regard to a suggestion that the topic might be dealt with at the forthcoming conference to be held next November in London on safety of life at sea, that could not be done, simply because its program was already overloaded.

With regard to the existing British legislation on the subject, Mr. Scott, K. C., M. P., remarked that elasticity might usefully be introduced into the stringent British rule. He had met with the case of a turret-deck ship which could only safely be sent to sea with a deck cargo. A case was also referred to in which a ship was penalized at Hamburg for being insufficiently loaded, owing to her having rejected a deck cargo tendered in America, because of the penalties she would incur in Great Britain for overloading.

Your committee feels that the subject is certainly making progress. It was referred to in the House of Commons in the debate of July 16, when the president of the board of trade again expressed his desire to arrive at an international understanding, and took occasion to refer to the encouraging attitude of the underwriters in Germany and America. Steps have been taken by the circulation of the memorandum and of accounts of the deputation to obtain the cooperation of members of the association in foreign countries in the matter of pressing the question on the attention of their Governments. Special attention has been directed in this connection to America as the country of export.

We append the memorandum above referred to, and desire to express our heartiest thanks to our correspondents who have supplied us so promptly and generously with information. We are sure the association will wish to thank Messrs. Brüdern (Berlin), Kirchoff (Hamburg), Jantzen (Christiania), Krayenhoff (Amsterdam), Seligmann (Dunkirk), Mæterlinck (Antwerp), and Rastorgoueff (Russia) for their assistance.

In the preparation of the memorandum Messrs. H. R. Miller, G. F. S. Bowles, and E. W. Brightman have been of very great assistance to the committee. Indeed, without their voluntary labors little could have been accomplished.

We were encouraged at the outset of our investigation by a resolution of the Liverpool Steam Shipowners' Association, passed on June 27, 1912, expressing their support of the resolution adopted at Paris by the association with regard to this subject. Mr. T. W. Moore, of the Imperial Merchant Service Guild, has also cooperated energetically with us as a member of the committee.

We beg to ask the conference to conform and continue our appointment, and to add to our number the following, viz: Messrs. Brüdern, Jantzen, Kirchoff, Krayenhoff, Seligmann, Mæterlinck, Rastorgoueff, Will (Copenhagen), Sans y Castañó (Barcelona), Parker Kirlin (New York), Farrar (New Orleans), Niemeyer (Kiel), Heldring (Amsterdam), Fruin (Rotterdam), Nolst-Trénité (Rotterdam), Bekker (Rotterdam), Korff (Helsingfors), Betts (New York), Boulton (London), and W. O. Hart (New Orleans).

(Signed)

G. F. STEWART BOWLES.  
EUSTACE W. BRIGHTMAN.  
T. WARREN MOORE.  
WALTER RUNCIMAN.  
R. TEMPERLEY.

AUGUST, 1913.

S. Doc. 605, 63-2—3



## ADDENDUM.

[On this report being presented to the conference at Madrid (2d October, 1913), the resolution embodied in the last paragraph was unanimously adopted, and on the proposition of Dr. Brüdern (Berlin) it was further resolved: "That the executive council of the International Law Association do respectfully approach the Governments of the nations represented at the conference to be held in London in November next respecting safety at sea, with the view of obtaining at that conference the consideration of arrangements for an early conference to consider (with the assistance of expert advisers) the question of the regulation of the carriage of deck cargoes by uniform legislation."]

NOVEMBER, 1913.